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## **OLR Bill Analysis**

**sHB 5038 (as amended by House "A")\***

### ***AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING AN ALL-PAYER CLAIMS DATABASE PROGRAM.***

#### **SUMMARY:**

Subject to the Office of Health Reform and Innovation's (OHRI) ability to secure federal funding and funds from private sources, this bill creates an all-payer claims database program for receiving and storing data relating to medical and dental insurance claims, pharmacy claims, and other insurance claims information from enrollment and eligibility files. The bill requires insurers and various other "reporting entities" that administer health care claims and payments to provide information for inclusion in the database.

The bill allows the Office of Policy and Management (OPM) secretary, in consultation with OHRI, to adopt regulations to implement and administer the database program. The bill establishes civil penalties of up to \$1,000 per day for entities that fail to report as required by those regulations.

The bill specifies how OHRI must use the data in the database and makes information in the database broadly available for reviewing health care use, cost, quality, and services data. Data disclosure must protect the confidentiality of individual health information.

The bill requires OHRI to oversee the planning, implementation, and administration of the program. It also allows the special advisor to the governor on health care reform (who directs OHRI's activities) to contract with an outside entity to plan, implement, or administer the program, but she can only do so in consultation with an existing working group that is required by law to develop a plan for a state-wide multipayer data initiative. The bill names the working group the

All-Payer Claims Database Advisory Group, expands its membership, and requires it to report on the database program.

Under the bill, OHRI can accept grants from the federal government or any source to carry out its statutory duties. The bill requires the special advisor to seek such non-state funding to cover the costs of the database program, and prohibits her from incurring costs for the program if she does not secure such funding.

The bill also makes technical changes.

\*House Amendment "A":

1. adds the provisions on the program being subject to available federal or private funding and the requirement for the special advisor to seek such funding;
2. grants OPM, rather than the special advisor, authority to promulgate implementing regulations;
3. explicitly requires reporting entities to submit information to the database;
4. specifies that the bill's penalties apply to violations of the regulations;
5. excludes Taft-Hartley plans from the bill's definition of reporting entity;
6. combines certain contracting authority and specifies that all of the contracting authority in the bill applies notwithstanding the general requirement that OHRI consult with the Sustinet Cabinet before hiring consultants;
7. extends the advisory group's reporting deadline in the bill by two months;
8. adds a representative of the Connecticut State Medical Society to the advisory group;

9. makes the entire bill, rather than just the advisory group reporting requirement, effective upon passage; and
10. makes other minor and clarifying changes.

EFFECTIVE DATE: Upon passage

## **ALL-PAYER CLAIMS DATABASE PROGRAM**

### ***Program Implementation, Administration, and Purpose***

PA 11-58 established OHRI within the Office of the Lieutenant Governor. OHRI is currently charged with coordinating and implementing the state's responsibilities under state and federal health care reform, among other things, and is under the direction of the special advisor to the governor on health care reform.

The bill requires OHRI to oversee the planning, implementation, and administration of the all-payer claims database program, including collecting, assessing, and reporting health care information relating to safety, quality, cost-effectiveness, access, and efficiency for all levels of health care.

Under the bill, OHRI must ensure that data from reporting entities is securely collected, compiled, and stored according to state and federal law. OHRI also must conduct audits of submitted data to verify its accuracy.

The bill requires the special advisor to seek funding from the federal government and private sources to cover the costs of planning, implementing, and administering the database program. By June 15 each year, she must submit to the OPM secretary, for his approval, a proposed program budget for the following fiscal year. The bill prohibits the special advisor from incurring costs or contracting for services associated with the program if she has not secured such federal or private funding.

### ***Reporting Entities***

The bill requires reporting entities to report health care information for inclusion in the database, in the form and manner the special

advisor and OPM secretary prescribe. Under the bill, reporting entities are:

1. insurers licensed to conduct health insurance business in Connecticut,
2. health care centers (i.e., HMOs),
3. insurers or health care centers that provide state residents with coverage under Medicare parts C or D,
4. third-party administrators,
5. pharmacy benefits managers,
6. hospital service corporations,
7. nonprofit medical service corporations,
8. fraternal benefit societies that transact health insurance business in Connecticut,
9. dental plan organizations,
10. preferred provider networks, and
11. any other individual or legal entity that administers health care claims and payments under a contract or agreement or is required by law to administer such claims and payments.

The bill specifies that reporting entities do not include employee welfare benefit plans, as defined in the federal Employee Retirement Income Security Act of 1974, that are also trusts established pursuant to collective bargaining subject to the federal Labor Management Relations Act (i.e., the Taft-Hartley Act).

### ***Civil Penalties***

The bill subjects reporting entities to civil penalties of up to \$1,000 per day for failing to report in accordance with the specific reporting requirements prescribed in regulations under the bill. The penalty

does not apply before the regulations are established. The bill prohibits reporting entities from passing such monetary penalties on to rate-setting entities or third-party payers.

***Use and Availability of Data***

The bill requires the special advisor to use the database to provide the state's health care consumers with information about the cost and quality of health care services so that they may make economically sound and medically appropriate health care decisions. She also must make data in the database available to any state agency, insurer, employer, health care provider, health care consumer, researcher, or the Connecticut Health Insurance Exchange (a quasi-public agency created to satisfy requirements of the federal Patient Protection and Affordable Care Act) to allow them to review the data relating to health care utilization, cost, or service quality.

Any such disclosure must protect the confidentiality of health information as defined in federal Health and Human Services (HHS) regulations (see BACKGROUND) and other information as required by state and federal law.

***Fees for Accessing Data***

The bill allows the special advisor to charge a fee to those seeking access to the data in the database.

***Contracting Authority***

The bill allows the special advisor, in consultation with the All-Payer Claims Database Advisory Group (see below), to contract with another person or entity to plan, implement, or administer the program.

The bill allows the special advisor to contract for or take other necessary actions to obtain fee-for-service data under the state medical assistance program or Medicare parts A and B. Under the bill, she may also contract for the collection, management, or analysis of data received from reporting entities, but any such contract must expressly prohibit the disclosure of the data for other purposes.

The bill specifies that this contracting authority is an exception to the existing requirement that OHRI consult with the Sustinet Health Care Cabinet before hiring consultants needed to carry out its duties.

### **ADVISORY GROUP**

Current law requires OHRI to convene a working group to develop a plan implementing a state-wide multipayer data initiative to improve the state's use of health care data from multiple sources to increase efficiency, enhance outcomes, and improve the understanding of health care spending in the public and private sectors.

The bill specifies that the special advisor must convene the working group, and renames it the All-Payer Claims Database Advisory Group. It adds to the group's membership the Department of Mental Health and Addiction Services commissioner, the health care advocate, the state chief information officer, and a representative of the Connecticut State Medical Society. The bill also allows the special advisor to appoint additional members. By law, the group also includes the OPM secretary; the comptroller; the commissioners of public health, social services, and insurance; representatives of health insurance companies; health insurance purchasers; hospitals; consumer advocates; and health care providers.

Current law requires OHRI to report on the working group's plan to the Appropriations, Insurance and Real Estate, and Public Health committees, but does not specify a reporting deadline. The bill instead requires the advisory group, by December 1, 2012, to report on the database program to these same legislative committees and to the governor. The report must include recommendations on (1) the person or entity to implement and administer the database program, (2) a timeline to transfer authority for implementing or administering the program to such person or entity, and (3) program administration.

### **BACKGROUND**

#### ***Related Federal Law***

**HIPAA.** The Health Insurance Portability and Accountability Act's (HIPAA) "privacy rule" sets national standards to protect the privacy

of health information. “Covered entities” such as health care providers, health plans (e.g., health insurers, HMOs, Medicare, and Medicaid), and health care clearinghouses must follow HIPAA rules. The HIPAA privacy rule protects individually identifiable health information by defining and limiting the circumstances under which covered entities may use or disclose such information.

**Definition of Health Information.** Under HHS regulations, “health information” means any information, whether oral or recorded in any form or medium, that:

1. is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse and
2. relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual (45 C.F.R. § 160.103).

#### **COMMITTEE ACTION**

##### Public Health Committee

Joint Favorable Substitute

Yea 27 Nay 1 (03/29/2012)

##### Appropriations Committee

Joint Favorable

Yea 34 Nay 13 (04/30/2012)